

P. ANDREW McSTAY, JR., OSB 033997

andymcstay@dwt.com

WILLIAM D. MINER, OSB 043636

billminer@dwt.com

DAVIS WRIGHT TREMAINE LLP

560 SW Tenth Avenue, Suite 700

Portland, OR 97205

Telephone: (503) 241-2300

MARCIA ROBINSON LOWRY (*pro hac vice*)

mlowry@abetterchildhood.org

ANASTASIA BENEDETTO (*pro hac vice*)

abenedetto@abetterchildhood.org

LINDSAY GUS (*pro hac vice*)

lgus@abetterchildhood.org

A BETTER CHILDHOOD

355 Lexington Avenue, Floor 16

New York, NY 10017

Tel: (646) 795-4456

Attorneys for Plaintiffs

*Additional Counsel of Record Listed on
Signature Page*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

WYATT B., *et al.*,

Plaintiffs,

v.

TINA KOTEK, *et al.*,

Defendants.

Case No. 6:19-cv-00556

PLAINTIFFS' OBJECTIONS TO
DEFENDANTS' WITNESS
STATEMENTS

Pursuant to the Court's April 19, 2024 Minute Order (ECF 382) adopting the Stipulated Amended Case Schedule (ECF 377), Plaintiffs hereby object to the following witness statements for trial.

I. GENERAL OBJECTIONS

A. Plaintiffs Reserve the Right to Raise Objections in Court, Based on Individual Questions and Answers

Plaintiffs cannot, in every instance, determine the nature, circumstances, and basis for testimony. Generally, Plaintiffs reserve the right to object at trial on the basis of any permissible grounds for objection. Plaintiffs cannot determine from the brief descriptors, for example, whether the witness has personal knowledge of the matter discussed, or whether the witness would seek to present an expert opinion rather than a lay opinion.

B. Plaintiffs Reserve the Right to Object to and Move to Strike Testimony from Witnesses Who Previously Expressed Inability to Answer at Deposition

Plaintiffs would also note that, as presented, the witness statements indicate that some witnesses, who repeatedly stated at a deposition that they were unable to speak in generalities about conditions or circumstances within the foster care system, now appear prepared to testify in generalities about that same system at trial. Plaintiffs reserve the right to move to strike testimony from witnesses, where the witness had previously expressed an inability to testify on that topic in deposition, including where the witness had expressed an inability to speak in the abstract.

C. Plaintiffs Reserve the Right to Supplement Their Trial Exhibits with Appropriate Documents to Impeach Witnesses

Defendants have introduced a 265-page summary of witness statements, broaching a wide variety of topics and introducing dozens of fact witnesses. Many of the issues raised by Defendants in their proposed witness statements can be impeached with relevant documents. Plaintiffs will appropriately supplement their trial exhibits with exhibits.

II. SPECIFIC OBJECTIONS

WITNESS: LACEY ANDRESEN	
Page	Objections
20, intends to testify about what the court appointed special master in the “AR” case said	Hearsay
24-25 intends to testify about how plaintiffs’ desired relief of imposing a rigid set of metrics, along with a court-appointed monitor, will stymie “the real progress” Child Welfare has made.	speculation, lack of personal knowledge, expert opinion as to effects of relief

WITNESS: LISA BENDER	
Page	Objections
52 - “court monitor is not necessary”	expert opinion, legal conclusion

WITNESS: RACHEL CURRANS-HENRY	
Page	Objections
58-61 – repeatedly attempts to testify about what Governor Kotek thinks	personal knowledge, hearsay, speculation
63 – cannot testify to what Governor Kotek “will do” in the future	speculation, lack of personal knowledge

WITNESS: APRILLE FLINT-GERNER	
Page	Objections
72-74 – regarding effects on “Vision for Transformation”	Unnoticed expert testimony about the likely effects of Vision for Transformation, general testimony about implementation science.
83 – testimony about what the division of Child Welfare “will continue” to do	Relevance, speculation, lack of personal knowledge
89-93 impact of injunction, “rigid inflexible metrics,” testimony about what has happened in other states, etc.	Relevance, expert opinion, speculation, lack of personal knowledge

WITNESS: DR. AJIT JETMALANI

Page	Objections
123-124 – testimony regarding Child Welfare challenges brought on by years of decline in medical services and Legislature's failure to adequately fund and support the operations of Child Welfare	Lack of personal knowledge; speculation
128-129– External barriers to the work of Child Welfare	Expert witness testimony
129 Testimony relating to “deliberate indifference”	Expert witness testimony, ultimate question/legal conclusion

WITNESS: TAMMI J. KANE- SULEIMAN

Page	Objections
143 – finds no direct correlation between child fatalities and overdue CPS assessment	Expert opinion

WITNESS: FARIBORZ PAKSERESHT

Page	Objections
215-216 continued expert opinion on remedial measures in litigation	Expert opinion

WITNESS: ANNA WILLIAMS

Page	Objections
Page 259 – discussion of the effects of SB 710	Lack of personal knowledge, speculation
Page 259-260 – impact of Oregon's Medicaid funding structure	Lack of personal knowledge, speculation

EXPERT WITNESS: UMA AHLUWALIA

Page	Objections
N/A	The objections that are outlined in Plaintiffs' Motion to Exclude, ECF 362

EXPERT WITNESS: JIM DIMAS

Page	Objections
N/A	The objections that are outlined in Plaintiffs' Motion to Exclude, ECF 362

EXPERT WITNESS: DR. BOWEN McBEATH

Page	Objections
N/A	Reserving objections on a to-be-filed Motion to Exclude

EXPERT WITNESS: STACEY MOSS

Page	Objections
N/A	The objections that are contained in Plaintiffs' Motion to Exclude, ECF 360

WITNESS: DR. SARAH VINSON

Page	Objections
N/A	Reserving objections on a to-be-filed Motion to Exclude

WITNESS: DR. CYNTHIA RICHTER-JONES

Page	Objections
N/A	Reserving objections on a to-be-filed Motion to Exclude

DATED this 25th day of April, 2024.

DAVIS WRIGHT TREMAINE LLP

By: s/P. Andrew McStay, Jr.

P. Andrew McStay, Jr. OSB 033997

andymcstay@dwt.com

William D. Miner, OSB 043636

billminer@dwt.com

560 SW Tenth Avenue, Suite 700

Portland, OR 97205

Tel: (503) 241-2300

A BETTER CHILDHOOD

Marcia Robinson Lowry (*pro hac vice*)
mlowry@abetterchildhood.org
Anastasia Benedetto (*pro hac vice*)
abenedetto@abetterchildhood.org
Lindsay Gus (*pro hac vice*)
lgus@abetterchildhood.org
355 Lexington Avenue, Floor 16
New York, NY 10017
Tel: (646) 795-4456

DISABILITY RIGHTS OREGON

Emily Cooper, OSB 182254
ecooper@droregon.org
Thomas Stenson, OSB 152894
tstenson@droregon.org
511 SW Tenth Avenue, Suite 200
Portland OR 97205
Tel: (503) 243-2081

RIZZO BOSWORTH ERAUT PC

Steven Rizzo, OSB 840853
srizzo@rizzopc.com
Mary D. Skjelset, OSB 075840
mskjelset@rizzopc.com
1300 SW Sixth Avenue, Suite 330
Portland, OR 97201
Tel: (503) 229-1819

Attorneys for Plaintiffs